

**DEPARTMENT TWELVE  
JUDGE CHRISTINE A. CARRINGER  
707-207-7312  
TENTATIVE RULINGS SCHEDULED FOR  
WEDNESDAY, JULY 8, 2015**

**RAYN v. BESNEATTE, ET AL.  
Case No. FCS044217**

Motion to Set Aside Default and Default Judgment

**TENTATIVE RULING**

Defendant's motion to set aside the default and default judgment is denied.

The proof of service filed on November 10, 2014 demonstrates proper service of Defendant by substituted service at his usual place of business. (See, Code Civ. Proc. § 415.20(b).) The return of a registered process server creates a rebuttable presumption of the facts stated in that return. (Evid. Code § 647; *Dill v. Berquist Constr. Co.* (1994) 24 Cal.App.4th 1426, 1441.) Defendant has not presented sufficient evidence to overcome this presumption.

In addition, notwithstanding Defendant's claim that he did not receive actual notice of the summons in time to defend the action, Defendant has not adequately shown that this lack of actual notice was not caused by Defendant's avoidance of service or inexcusable neglect. (Code Civ. Proc. § 473.5(b).)